

Attorney Docket No. 9099-2IP

DAC  
JFW  
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Scarantino et al.

Conf. No.: 1156

Serial No.: 10/089,483

Group: 3736

Filing Date: September 17, 2002

Examiner: Michael C. Astorino

For: **METHODS, COMPUTER PROGRAM PRODUCTS, AND DEVICES FOR  
CALIBRATING CHRONICALLY TISSUE IMPLANTED SENSORS USING  
CHRONICALLY TISSUE IMPLANTED GENERATING ELECTRODES**

Date: March 29, 2006

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**SECOND REQUEST FOR RECONSIDERATION OF PETITION FOR WAIVER OF  
SIGNATURE REQUIREMENTS UNDER 37 C.F.R. § 1.183 and/or § 1.47(a)**

Sir:

This Second Request for Reconsideration of Petition is being filed responsive to the Decision on Petition (hereinafter "Decision") mailed January 30, 2006 from the United States Patent and Trademark Office. The Applicants hereby request reconsideration of the petitions filed October 5, 2005 and December 21, 2005 for the suspension of the signature requirements for Mr. Stefan Ufer under 37 C.F.R. § 1.183 and/or § 1.47 as Mr. Ufer has refused to sign the necessary papers to amend the designation of inventorship in the above-identified patent application as requested in the Request for Correction of Inventorship under 37 C.F.R. § 1.48, which was filed with the USPTO on October 5, 2005. Additional Evidence in support of the suspension of rules/waiver of signature requirements is provided herein as requested in the Decision.

In particular, the Decision states that a grantable petition under § 1.47(a) requires five items and that Applicants' petition lacks (1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings). See Decision, page 3.

With respect to item (1), Applicants provide herewith at Tab A a copy of a the certified letter sent to the non-signing inventor, Mr. Stefan Ufer, on December 21, 2005. As stated in the certified letter of December 21, 2005, Applicants' representative once again forwarded a copy of the application papers, statement under 37 C.F.R. § 1.48, Assignment and Declaration to Mr. Ufer. As indicated by a copy of the certified receipt signed by Mr.

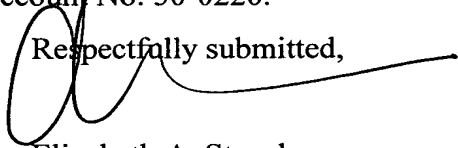
In re: Scarantino et al.  
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Page 2

Ufer included herewith at Tab B, Mr. Ufer, in fact, received the certified letter and associated papers and has, once again, failed to respond. Applicants have not received any written or oral communication from Mr. Ufer in this matter. The Decision states that these facts will satisfy item (1). *See* Decision, page 3. Accordingly, Applicants submit that Mr. Ufer's failure to respond to the certified letter of December 21, 2005 is a constructive refusal on the part of Mr. Ufer to sign the statement under 37 C.F.R. § 1.48, Assignment and Declaration.

Applicants have provided herein the necessary items to satisfy item (1) for a grantable petition under 37 C.F.R. § 1.47(a) as requested by the Decision. Accordingly, Applicants respectfully request that the signature requirements for the statement pursuant to 37 C.F.R. § 1.48 with respect to lack of deceptive intent, the Assignment and the Declaration be waived so the proper inventorship may be on file in the above referenced application.

The petition fee was paid with the filing of Applicants' first petition of October 24, 2005. However, any additional fees or refunds associated with this transaction may be charged or overpayment credited to our Deposit Account No. 50-0220.

Respectfully submitted,

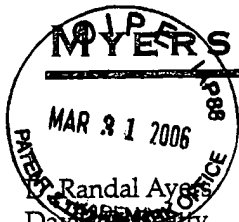
  
Elizabeth A. Stanek  
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Attorney for Applicants

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**Certificate of Mailing under 37 CFR 1.8**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on March 29, 2006.

  
Erin A. Champion



# MYERS BIGEL SIBLEY & SAJOVEC, P.A.

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Needham J. Boddie, II	David C. Hall	Mary L. Miller, Ph.D.	Grant J. Scott
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Lynne A. Borchers	Lori W. Herman, Ph.D.	James D. Myers	Elizabeth A. Stanek
James R. Cannon	Laura M. Kelley	David K. Purks	Richard P. Vitek

December 21, 2005

*Via Certified Mail*

Mr. Stefan Ufer  
41 South Swain  
Raleigh, NC 27601

Re: Inventorship: 9099-2 Family of Patents and Applications  
Our Ref. Nos.: 9099-2IP

Dear Mr. Ufer:

Despite our repeated telephone and email messages to you on this topic and our prior letters of June 24, 2004 and November 5, 2004, we have not received the documents that were sent to you to implement the necessary changes to inventorship in the above referenced application. Accordingly, we are reforwarding to you with this letter the following documents:

1. a copy of the above-referenced application, preliminary amendment and figures;
2. an Assignment;
3. a Declaration and Power of Attorney; and
4. a Declaration In Support Of Petition For Correction Of Inventorship Under 37 CFR 1.48(a)

Items 2 through 4 are for your signature related to adding you as an inventor in the above-referenced application. Please sign each of these documents where indicated and return them to my attention by January 9, 2006 using the enclosed Federal-Express label. We appreciate your assistance with this matter. We recommend that you keep a signed copy for your records.

**Please note that we have begun the process for changing the inventorship in the above-referenced application using procedures directed to dealing with an uncooperative inventor.**

Please let us know if you have any questions.

Best regards.

Sincerely,

Elizabeth A. Stanek

EAS/eac  
Enclosures

# MYERS BIGEL SIBLEY & SAJOVEC, P.A.

## PATENT LAWYERS

**MAR 21 2006**  
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December 21, 2005

*Via Certified Mail*

Mr. Stefan Ufer  
41 South Swain  
Raleigh, NC 27601

Re: Inventorship: 9099-2 Family of Patents and Applications  
Our Ref. Nos.: 9099-2IP

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I messages to you on this topic and our prior letters  
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is letter the following documents:

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Attorney; and

Petition For Correction Of Inventorship Under 37

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**Please note that we have begun the process for changing the inventorship in the above-referenced application using procedures directed to dealing with an uncooperative inventor.**

Please let us know if you have any questions.

Best regards.

Sincerely,

Elizabeth A. Stanek

EAS/eac  
Enclosures

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1. Article Addressed to:

**Mr. Stefan Ufer  
41 South Swain  
Raleigh, NC 27601**

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☒ Addressee

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